

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

The Parties to this action jointly give notice to the Court that they have confidentially resolved this matter pursuant to the terms of the Confidential Stipulation of Settlement submitted to the Court *in camera*. Consistent with the requirements of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b) and (c)¹, the Parties request the Court’s approval of this settlement of Plaintiff Pamela Larson (“Plaintiff”)’s claims and dismissal of the case with prejudice and without costs and attorneys’ fees to either party.

In support of this Motion, the Parties acknowledge and agree that this settlement involves resolution of *bona fide* disputes of fact and law regarding whether Plaintiff was owed overtime wages as required by the FLSA and South Dakota state law. The Parties further acknowledge and agree that the Stipulation for Settlement has been reached as a

¹ See Generally, *D.A. Schulte, Inc. v. Gangi*, 328 U.S. 108 (1946) and *Brooklyn Sav. Bank v. O'Neil*, 324 U.S. 697 (1945)(providing that courts must approve some FLSA claims, but leaving open whether the FLSA required judicial approval to settle bona fide disputes over hours worked or wages owed); *Barbee v. Big River Steel, LLC*, 927 F.3d 1024 (8th Cir. 2019)(same, but declining to require court review of settlement of attorneys' fee claim).

result of good faith negotiations and compromise by the Parties and is a fair and reasonable settlement of Plaintiff's claims. Finally, the Parties have agreed that confidentiality is a material term to the settlement and a material inducement to enter into a settlement, without which the case would not be resolved.²

Specifically, the Confidential Stipulation for Settlement resolves the claims of Plaintiff. The settlement amount agreed to will be distributed in accordance with the Confidential Stipulation of Settlement.

If the Court approves the settlement, then the Parties stipulate to the dismissal of this action with prejudice, without costs and attorneys' fees awarded to either party, and jointly move the Court for an Order of Dismissal with Prejudice pursuant to Federal Rule of Civil Procedure 41(a).

WHEREFORE, on the basis of the facts set forth above and in the Confidential Stipulation of Settlement, the Parties respectfully request that the Court approve the Settlement and enter an Order of Dismissal with Prejudice and without costs and attorneys' fees awarded to either party.

² *Crabtree v. Volkert, Inc.*, No. 11-0529-WS-B, 2013 WL 593500, at *4 (S.D.Ala. Feb. 14, 2013) ("[A]ll but the most doctrinaire opinions on the subject acknowledge that there may be circumstances where confidentiality provisions may be appropriate and should be accepted."); *Killion v. KeHE Distributors*, — F.Supp.2d —, 2012 WL 3201889, *10 (N.D.Ohio Aug. 3, 2012) (pointing out that "other courts have nonetheless approved confidential settlements of FLSA claims"); *Dillworth v. Case Farms Processing, Inc.*, 2010 WL 776933, at *1 (N.D.Ohio 2010) (approving confidential FLSA Settlement Agreement stating "[g]iven the uncertainty surrounding a possible trial in this matter, the certainty and finality that comes with settlement also weighs in favor of a ruling approving the agreement.); *King v. Wells Fargo Home Mortg.*, 2009 WL 2370640, *2 (M.D. Fla July 30, 2009) (approving confidential FLSA settlement after *in camera* review).

Respectfully submitted:

Dated: November 25, 2019



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/s/ Tracye L. Sherrill

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